

By: Shapiro

S.B. No. 738

A BILL TO BE ENTITLED

AN ACT

relating to alternative methods of operating public schools.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 12.013, Education Code, is amended by amending Subsection (b) and adding Subsections (c), (d), and (e) to read as follows:

(b) A home-rule school district is subject to:

(1) a provision of this title establishing a criminal offense;

(2) a provision of this title relating to limitations on liability; and

(3) unless a waiver is granted under Subsection (c), a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:

(A) the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;

~~(B) [educator certification under Chapter 21 and educator rights under Sections 21.407, 21.408, and 22.001;~~

~~[(C)]~~ criminal history records under Subchapter C, Chapter 22;

(C) ~~[(D)]~~ student admissions under Section 25.001;

(D) ~~[(E)]~~ school attendance under Sections

1 25.085, 25.086, and 25.087;

2 (E) [~~(F)~~] inter-district or inter-county

3 transfers of students under Subchapter B, Chapter 25;

4 (F) [~~(C)~~] ~~elementary class size limits under~~

5 ~~Section 25.112, in the case of any campus in the district that fails~~

6 ~~to satisfy any standard under Section 39.054(d),~~

7 [~~(H)~~] high school graduation under Section

8 28.025;

9 (G) [~~(I)~~] special education programs under

10 Subchapter A, Chapter 29;

11 (H) [~~(J)~~] bilingual education under Subchapter

12 B, Chapter 29;

13 (I) [~~(K)~~] prekindergarten programs under

14 Subchapter E, Chapter 29;

15 (J) [~~(L)~~] safety provisions relating to the

16 transportation of students under Sections 34.002, 34.003, 34.004,

17 and 34.008;

18 (K) [~~(M)~~] computation and distribution of state

19 aid under Chapters 31, 42, and 43;

20 (L) [~~(N)~~] extracurricular activities under

21 Section 33.081;

22 (M) [~~(O)~~] health and safety under Chapter 38;

23 (N) [~~(P)~~] public school accountability under

24 Subchapters B, C, D, E, G, and J, Chapter 39;

25 (O) [~~(Q)~~] equalized wealth under Chapter 41;

26 (P) [~~(R)~~] a bond or other obligation or tax rate

27 under Chapters 42, 43, and 45; and

1           (Q) [~~S~~] purchasing under Chapter 44.

2           (c) The commissioner may grant to a home-rule school  
3 district a waiver of a prohibition, restriction, or requirement to  
4 which the district is otherwise subject under Subsection (b)(3),  
5 other than a prohibition, restriction, or requirement to which the  
6 district is subject under Subsection (b)(3)(N), if:

7           (1) the district:

8           (A) submits a written request for the waiver in  
9 the time and manner required by commissioner rule; and

10           (B) states in the waiver request the purpose of  
11 the request, including the manner in which the waiver is intended  
12 to:

13                   (i) improve student performance; or

14                   (ii) reduce district operational costs  
15 without detrimentally affecting student performance; and

16           (2) the commissioner reasonably determines that the  
17 waiver is likely to assist the district in achieving the purpose  
18 stated in the waiver request.

19           (d) The commissioner shall adopt rules as necessary to  
20 administer Subsection (c).

21           (e) Not later than December 31 of each even-numbered year,  
22 the commissioner shall submit to the governor, the lieutenant  
23 governor, the speaker of the house of representatives, and the  
24 presiding officer of the standing committee of each house of the  
25 legislature with primary jurisdiction over public education a  
26 written report of each waiver request made and granted under  
27 Subsection (c) for the preceding two complete school years.

1 SECTION 2. Section 12.014, Education Code, is amended to  
2 read as follows:

3 Sec. 12.014. APPOINTMENT OF CHARTER COMMISSION. (a) The  
4 board of trustees of a school district shall appoint a charter  
5 commission to frame a home-rule school district charter if:

6 (1) the board receives a petition requesting the  
7 appointment of a charter commission to frame a home-rule school  
8 district charter signed by at least five percent of the registered  
9 voters of the district; ~~or~~

10 (2) at least two-thirds of the total membership of the  
11 board adopt a resolution ordering that a charter commission be  
12 appointed; or

13 (3) a majority of the total membership of the board of  
14 a district that, for the preceding two school years, has been  
15 awarded an exemplary distinction designation under Subchapter G,  
16 Chapter 39, adopts a resolution ordering that a charter commission  
17 be appointed.

18 (b) Subsection (a)(3) applies to a school district awarded  
19 an exemplary distinction designation under Subchapter G, Chapter  
20 39, only if the distinction designation has been awarded without  
21 considering the projected performance of district students on  
22 assessment instruments administered under Subchapter B, Chapter  
23 39.

24 SECTION 3. Section 12.016, Education Code, is amended to  
25 read as follows:

26 Sec. 12.016. CONTENT. Each home-rule school district  
27 charter must:

- 1 (1) describe the educational program to be offered;
- 2 (2) provide that continuation of the home-rule school  
3 district charter is contingent on:
  - 4 (A) acceptable student performance on assessment  
5 instruments adopted under Subchapter B, Chapter 39; ~~and~~
  - 6 (B) compliance with other applicable  
7 accountability provisions under Chapter 39; and
  - 8 (C) maintenance of the district's exemplary  
9 distinction designation, in the case of a district described by  
10 Section 12.014(a)(3);
- 11 (3) specify any basis, in addition to a basis  
12 specified by this subchapter, on which the charter may be placed on  
13 probation or revoked;
- 14 (4) describe the governing structure of the district  
15 and campuses;
- 16 (5) specify any procedure or requirement, in addition  
17 to those under Chapter 38, that the district will follow to ensure  
18 the health and safety of students and employees;
- 19 (6) describe the process by which the district will  
20 adopt an annual budget, including a description of the use of  
21 program-weight funds;
- 22 (7) describe the manner in which an annual audit of  
23 financial and programmatic operations of the district is to be  
24 conducted, including the manner in which the district will provide  
25 information necessary for the district to participate in the Public  
26 Education Information Management System (PEIMS) to the extent  
27 required by this subchapter; and

1           (8) include any other provision the charter commission  
2 considers necessary.

3           SECTION 4. Section 12.019, Education Code, is amended by  
4 adding Subsection (e) to read as follows:

5           (e) A school district described by Section 12.014(a)(3) is  
6 not required to hold an election under this section on the  
7 district's charter.

8           SECTION 5. Section 12.020, Education Code, is amended by  
9 adding Subsection (k) to read as follows:

10          (k) A school district described by Section 12.014(a)(3) is  
11 not required to hold an election under this section on a charter  
12 amendment.

13          SECTION 6. Section 12.021(a), Education Code, is amended to  
14 read as follows:

15          (a) Except as provided by Section 12.0211 and subject  
16 [Subject] to Section 12.022, a proposed home-rule school district  
17 charter or a proposed charter amendment is adopted if approved by a  
18 majority of the qualified voters of the district voting at an  
19 election held for that purpose.

20          SECTION 7. Subchapter B, Chapter 12, Education Code, is  
21 amended by adding Section 12.0211 to read as follows:

22          Sec. 12.0211. ALTERNATIVE ADOPTION OF CHARTER OR CHARTER  
23 AMENDMENT; EMPOWERMENT HOME-RULE SCHOOL DISTRICT. (a) Section  
24 12.021 does not apply to a school district described by Section  
25 12.014(a)(3).

26          (b) A proposed charter or charter amendment in a school  
27 district described by Section 12.014(a)(3) is considered adopted

1 after approval under Section 12.018 or 12.020, as applicable, on  
2 order by the governing body declaring adoption. The charter or  
3 charter amendment shall specify an effective date and takes effect  
4 according to its terms.

5 (c) At the time a school district described by Section  
6 12.014(a)(3) adopts a charter, the district becomes an empowerment  
7 home-rule school district.

8 SECTION 8. Section 12.023(a), Education Code, is amended to  
9 read as follows:

10 (a) As soon as practicable after a school district adopts a  
11 home-rule school district charter or charter amendment, the  
12 president of the board of trustees shall certify to the secretary of  
13 state a copy of the charter or amendment showing the approval by the  
14 voters of the district, except that a district described by Section  
15 12.014(a)(3) is not required to show approval by the voters of the  
16 district.

17 SECTION 9. Sections 12.052(a) and (c), Education Code, are  
18 amended to read as follows:

19 (a) In accordance with this subchapter, the board of  
20 trustees or the superintendent of a school district [~~or the~~  
21 ~~governing body of a home-rule school district~~] may grant a charter  
22 to parents and teachers for a campus or a program on a campus if the  
23 board or superintendent, as applicable, is presented with a  
24 petition signed by:

25 (1) the parents of a majority of the students at that  
26 school campus; and

27 (2) a majority of the classroom teachers at that

1 school campus.

2 (c) A charter [~~The board of trustees~~] may not arbitrarily be  
3 denied [~~deny a charter~~] under this section.

4 SECTION 10. Section 12.0521(a), Education Code, is amended  
5 to read as follows:

6 (a) Notwithstanding Section 12.052, in accordance with this  
7 subchapter and in the manner provided by this section, the board of  
8 trustees or the superintendent of a school district [~~or the~~  
9 ~~governing body of a home-rule school district~~] may grant a charter  
10 for:

11 (1) a new district campus; or

12 (2) a program that is operated:

13 (A) by an entity that has entered into a contract  
14 with the district under Section 11.157 to provide educational  
15 services to the district through the campus or program; and

16 (B) at a facility located in the boundaries of  
17 the district.

18 SECTION 11. Subchapter C, Chapter 12, Education Code, is  
19 amended by adding Section 12.0522 to read as follows:

20 Sec. 12.0522. AUTHORIZATION FOR CAMPUS IDENTIFIED AS  
21 UNACCEPTABLE. Notwithstanding Section 12.052, in accordance with  
22 this subchapter, the board of trustees of a school district shall,  
23 as ordered by the commissioner under Section 39.107(a)(2), grant a  
24 charter for a campus that has been identified as unacceptable for  
25 two consecutive school years.

26 SECTION 12. Section 12.053(a), Education Code, is amended  
27 to read as follows:

1           (a) The board of trustees or the superintendent of a school  
2 district may grant a charter to parents and teachers at two or more  
3 campuses in the district for a cooperative charter program if the  
4 board or superintendent, as applicable, is presented with a  
5 petition signed by:

6           (1) the parents of a majority of the students at each  
7 school campus; and

8           (2) a majority of the classroom teachers at each  
9 school campus.

10          SECTION 13. Section 12.057(c), Education Code, is amended  
11 to read as follows:

12          (c) A campus or program granted a charter under Section  
13 12.052, 12.0521(a)(1), 12.0522, or 12.053 is immune from liability  
14 to the same extent as a school district, and its employees and  
15 volunteers are immune from liability to the same extent as school  
16 district employees and volunteers.

17          SECTION 14. Sections 12.060, 12.061, 12.062, and 12.063,  
18 Education Code, are amended to read as follows:

19          Sec. 12.060. FORM. A charter shall be in the form and  
20 substance of a written contract signed by the president of the board  
21 of trustees or the superintendent, as applicable, granting the  
22 charter and the chief operating officer of the campus or program for  
23 which the charter is granted.

24          Sec. 12.061. CHARTER GRANTED. Each charter granted [~~a~~  
25 ~~board of trustees grants~~] under this subchapter must:

26           (1) satisfy this subchapter; and

27           (2) include the information that is required under

1 Section 12.059 consistent with the information provided in the  
2 application and any modification the board requires.

3 Sec. 12.062. REVISION. (a) A charter granted under  
4 Section 12.052, 12.0522, or 12.053 may be revised:

5 (1) with the approval of the board of trustees or  
6 superintendent, as applicable, that granted the charter; and

7 (2) on a petition signed by a majority of the parents  
8 and a majority of the classroom teachers at the campus or in the  
9 program, as applicable.

10 (b) A charter granted under Section 12.0521 may be revised  
11 with the approval of the board of trustees or superintendent, as  
12 applicable, that granted the charter. A charter may be revised  
13 under this subsection only before the first day of instruction of a  
14 school year or after the final day of instruction of a school year.

15 Sec. 12.063. BASIS FOR PLACEMENT ON PROBATION OR  
16 REVOCATION. (a) A board of trustees or superintendent may place  
17 on probation or revoke a charter the board or superintendent, as  
18 applicable, [~~it~~] grants if the board or superintendent determines  
19 that the campus or program:

20 (1) committed a material violation of the charter;

21 (2) failed to satisfy generally accepted accounting  
22 standards of fiscal management; or

23 (3) failed to comply with this subchapter, another  
24 law, or a state agency rule.

25 (b) The action the board or superintendent takes under  
26 Subsection (a) shall be based on the best interest of campus or  
27 program students, the severity of the violation, and any previous

1 violation the campus or program has committed.

2 SECTION 15. Section 12.064(a), Education Code, is amended  
3 to read as follows:

4 (a) Each board of trustees or superintendent that grants a  
5 charter under this subchapter shall adopt a procedure to be used for  
6 placing on probation or revoking a charter the board or  
7 superintendent, as applicable, [~~it~~] grants.

8 SECTION 16. Subchapter C, Chapter 12, Education Code, is  
9 amended by adding Sections 12.066 and 12.067 to read as follows:

10 Sec. 12.066. FUNDING. The amount of funding for a campus or  
11 program granted a charter under this subchapter may not be less, on  
12 a per student basis, than the amount of funding for any regular  
13 campus in the school district in which the campus or program is  
14 located.

15 Sec. 12.067. ITEMIZATION OF COSTS PROVIDED BY DISTRICT. If  
16 a charter is granted under Section 12.0521(a)(2) for a program that  
17 is operated by an entity that has entered into a contract with a  
18 school district under Section 11.157 to provide educational  
19 services to the district through the campus or program, the  
20 district shall provide to the entity:

21 (1) an itemized list of the services that the district  
22 provided for program purposes before operation of the program under  
23 the contract and the cost of those services; and

24 (2) an itemized list of any services that the district  
25 will continue to provide for the program and the cost of those  
26 services.

27 SECTION 17. The heading to Section 39.107, Education Code,

1 is amended to read as follows:

2           Sec. 39.107. RECONSTITUTION, CONVERSION TO CHARTER CAMPUS,  
3 REPURPOSING, ALTERNATIVE MANAGEMENT, AND CLOSURE.

4           SECTION 18. Section 39.107, Education Code, is amended by  
5 amending Subsections (a) and (e) and adding Subsections (a-2),  
6 (e-2), and (e-3) to read as follows:

7           (a) After a campus has been identified as unacceptable for  
8 two consecutive school years, the commissioner shall:

9                 (1) order the reconstitution of the campus; or  
10                 (2) order the reconstitution of the campus and direct

11 the board of trustees of the school district or governing body of  
12 the home-rule school district in which the campus is located to  
13 convert the campus to a charter campus by granting a charter under  
14 Section 12.0522.

15           (a-2) After a campus is converted to a charter campus under  
16 Subsection (a)(2), this section continues to apply to the campus.

17           (e) If a campus is considered to have an unacceptable  
18 performance rating for three consecutive school years after the  
19 campus is reconstituted under Subsection (a), the commissioner,  
20 subject to Subsection (e-1) or (e-2), shall order:

21                 (1) repurposing of the campus under this section;  
22                 (2) alternative management of the campus under this  
23 section; or  
24                 (3) closure of the campus.

25           (e-2) For purposes of this subsection, "parent" has the  
26 meaning assigned by Section 12.051. If the commissioner is  
27 presented, in the time and manner specified by commissioner rule, a

1 written petition signed by the parents of a majority of the students  
2 enrolled at a campus to which Subsection (e) applies, specifying  
3 the action described by Subsection (e)(1), (2), or (3) that the  
4 parents request the commissioner to order, the commissioner shall,  
5 except as otherwise authorized by this subsection, order the  
6 specific action requested. If the board of trustees of the school  
7 district in which the campus is located presents to the  
8 commissioner, in the time and manner specified by commissioner  
9 rule, a written request that the commissioner order specific action  
10 authorized under Subsection (e) other than the specific action  
11 requested in the parents' petition and a written explanation of the  
12 basis for the board's request, the commissioner may order the  
13 action requested by the board of trustees.

14 (e-3) For purposes of Subsection (e-2), the signature of  
15 only one parent of a student is required.

16 SECTION 19. Notwithstanding Section 12.013(e), Education  
17 Code, as added by this Act, the report submitted by the commissioner  
18 of education on or before December 31, 2012, must cover only waiver  
19 requests made and granted for the 2011-2012 school year.

20 SECTION 20. This Act applies beginning with the 2011-2012  
21 school year.

22 SECTION 21. This Act takes effect immediately if it  
23 receives a vote of two-thirds of all the members elected to each  
24 house, as provided by Section 39, Article III, Texas Constitution.  
25 If this Act does not receive the vote necessary for immediate  
26 effect, this Act takes effect September 1, 2011.